

INFORMATION PAPER

AETV-JA-CIV
Updated: 7 December 2006

SUBJECT: Post Government Employment

1. References.

- a. 18 United States Code (USC) § 207, Restrictions on Former Officers, Employers, and Elected Officials of the Executive and Legislative Branches. (Note: This does not apply to former enlisted personnel.)
- b. 18 USC § 208, Acts Affecting a Personal Interest.
- c. 41 USC 423, The Procurement Integrity Act.

2. **Purpose.** To provide information on several issues that can arise when looking for employment outside the Government and highlight restrictions on your employment activities after you leave federal service.

3. Discussion.

a. Pre-Separation Matters.

(1) Negotiating Employment. Federal employees are prohibited from working on an assignment that will affect the financial interest of someone with whom the employee has an arrangement for employment or in negotiating for employment. Any discussion, even tentative, is negotiating for employment. If negotiating employment creates a conflict, there are two ways to resolve it – disqualification and termination of discussion. With the approval of the employee's supervisor, the employee may change duties so that he/she has no contact with official actions affecting that company. If disqualification is not an option, then the employee must immediately terminate all employment discussions. Leaving the door open for the possibility of employment at a later time does not resolve the conflict.

(2) Seeking Employment. While you are participating in a matter which has a direct and predictable effect on the financial interest of a person or company, you are prohibited from *seeking* employment (including pre-negotiation activity) with that person or company. Federal employees are prohibited from working on a DoD procurement valued at more than \$100,000 when seeking employment with a bidder or offeror. Employees must file written disqualification statement to eliminate contact with or actions affecting the prospective employer. An employee is "seeking" employment if he/she has:

- a) directly or indirectly engaged in employment negotiations with any person;
- b) made an unsolicited communication to any person or that person's agent about possible employment; or
- c) made a response other than rejection to an unsolicited communication from any person or that person's agent about possible employment.

(3) Travel, Meals and Reimbursement. Government employees may accept travel expenses to attend interviews if such expenses are customarily paid to all similarly situated job applicants. If the employee completes either the OGE Form 450 or the SF 278, then these payments should be reported.

^ ETV-JA-AL

BJECT: Post Government Employment

(4) Time Limits. Procurement officers and source selection board members, program managers and their deputies, and those involved in decision making on contract and subcontract awards of \$10,000,000 or more, may not accept compensation from the contractor or party who received the payment, for a period of one year from the date when the action occurred, or the date when they last served as an approval authority.

b. **“Switching Sides”.**

(1) Permissive TDY may not be used to begin employment. Officers may begin employment only after beginning terminal leave.

(2) Former federal employees are forever prohibited from representing someone on the same matter on which they worked for the government. This does not apply to “behind the scenes” assistance. A former employee may prepare an internal negotiation on a covered matter, but may not present that material in discussions with Federal employees.

(3) Former officers and civilians are forever prohibited from trying to influence a federal employee on any particular matter involving non-federal parties in which they participated **personally and substantially** while working for the government.

(4) For two years, former officers and civilians are prohibited from trying to influence a federal employee on behalf of someone regarding a matter that was under the former employee’s official responsibility during his/her last year of active duty. For agency heads, this restriction applies to every action pending in the agency during the last year of federal service, regardless of whether or not the former employee had any knowledge of the matter.

(5) One Year “Cooling Off” Period for Retired General Officers and Senior Civilian Employees. Retired general officers and senior employees are prohibited from trying to influence official actions in their former department (Army) for one year after their departure. If the last assignment was a joint entity, the restriction applies to the joint entity and the service from which the employee retired. In addition, these individuals may not aid, advise, or represent any foreign entity to help influence any U.S. government entity or employee.

c. **Foreign Government Employment.**

(1) Retired military members must obtain a waiver to work for a foreign government. Title 37 USC § 908 allows foreign government employment with the approval of the Secretary of the Army. Note that these waivers often take three to four months, so plan accordingly.

(2) This requirement applies to employment by corporations owned or controlled by foreign governments, but does not apply to independent foreign companies.

^T TAMARA L.M. BROUGHTON/370-5853
✓ CORPS, OSJA